

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Richard Dutton,)	C.A. No. 0:11-1014-TLW-PJG
)	
Petitioner,)	
)	
vs.)	ORDER
)	
John Owen, Warden, ¹)	
)	
Respondent.)	
_____)	

This matter is now before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Paige J. Gossett, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.). In her Report, Magistrate Judge Gossett recommends that the Respondent’s motion to dismiss or, in the alternative, for summary judgment, (Doc. # 16) be granted. (Doc. # 24). Petitioner has filed objections to the Report. (Doc. # 29).

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not

¹Pursuant to Federal Rule of Civil Procedure 25(d), the current Warden of FCI Edgefield, Kenny Atkinson, is substituted for Respondent John Owens.

objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of this standard, the Court has reviewed, de novo, the Report and the objections thereto. The Court accepts the Report.

THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 24), Petitioner's objections are **OVERRULED** (Doc. # 29); Respondent's motion to dismiss or, in the alternative, for summary judgment, (Doc. # 16) is **GRANTED** and this petition is **DISMISSED**.

IT IS SO ORDERED.

s/ Terry L. Wooten

TERRY L. WOOTEN

UNITED STATES DISTRICT JUDGE

July 25, 2012

Florence, South Carolina